

Complying with CDM 2015

On 6th April 2015, the Construction (Design and Management) Regulations 2015 (CDM 2015 Regulations)—which work to ensure the health, safety and welfare of all construction projects— came into force. The intention behind the reform was to amend the previous health and safety standards in order to improve worker protection. However, rather than supplement the CDM 2007 Regulations, the current iteration will supersede the previous rules and procedures. As a result, there have been key changes to the regulations that you, as the owner or manager of a construction firm, will need to learn in order to avoid non-compliance.

Key Changes to the CDM

The objective of the CDM 2015 Regulations is to emphasise health and safety through increased coordination between the three primary parties: client, designer and contractor. This focus is clearly reflected in these key changes:

1. All projects must have the following:
 - Workers who have the correct skills, knowledge, training and experience. Their backgrounds should include risk management training for both equipment and procedures.
 - Contractors who will provide appropriate supervision, instruction and information in order to enforce and monitor the health and safety standards for the worksite.
 - A construction phase plan that details the project, outlines each phase of construction, and lists the project team members, the responsibilities of each individual involved, what arrangements have been taken to

mitigate risks and what health and safety procedures have been implemented.

The objective of the CDM 2015 Regulations is to emphasise health and safety through increased coordination between the client, designer and contractor.

2. A project—regardless of whether it is non-domestic or domestic—where more than one contractor is involved, must have the following:
 - A principal designer who is responsible for planning, managing, monitoring and coordinating the pre-construction phase of the project to ensure that the project is carried out without risks to health or safety.
 - A principal contractor who is responsible for planning, managing and monitoring the construction phase. This includes creating and maintaining the construction phase plan, and coordinating matters related to health and safety during the construction phase.
 - A health and safety file which should outline how to safely perform routine procedures and clean up the worksite. The file should be continually updated and revised by the principal designer as the project progresses.
3. For any project, the commercial client must always do the following:
 - Provide preconstruction information to designers and contractors, which should

Provided by Trade Protect

The content of this Risk Insights is of general interest and is not intended to apply to specific circumstances. It does not purport to be a comprehensive analysis of all matters relevant to its subject matter. The content should not, therefore, be regarded as constituting legal advice and not be relied upon as such. In relation to any particular problem which they may have, readers are advised to seek specific advice. Further, the law may have changed since first publication and the reader is cautioned accordingly. © 2015 Zywave, Inc. All rights reserved.

Complying with CDM 2015

outline all known potential hazards that may arise during construction.

- Make arrangements to ensure those carrying out the project can manage health and safety risks in a proportionate way.
 - Ensure that both the principal designer and principal contractor comply with their responsibilities and duties, including preparing a health and safety file and a construction phase plan, respectively.
4. If a project is scheduled to last more than 30 days and will require more than 20 workers full-time, or will exceed 500 working days, the client must notify the HSE of the project.
 5. The CDM co-ordinator role is abolished and partly replaced by the new principal designer role.

While these reforms are only a fraction of the total reforms introduced by the CDM Regulations 2015, they represent some of the law's biggest changes.

Impact of the Changes to the CDM

Due to the changes introduced by the CDM 2015 Regulations, you could be exposed to a greater amount of liability. However, for the most part, the boilerplate collection of insurance that currently provides your firm with cover will not change. What could be affected is your professional indemnity insurance.

Professional indemnity (PI) insurance protects against claims of professional negligence. Because the old role of CDM Co-ordinator is not exactly the same as the new Principal Designer role, assuming the Principal Designer role simply because you have served as the CDM Co-ordinator in the past may create gaps in your PI cover and leave you open to claims of professional negligence. Do not assume the Principal Designer role or any role by default—ensure you understand all the responsibilities your role entails under CDM 2015 to avoid allegations of professional negligence.

How to Remain Compliant

If your construction firm fails to follow the CDM 2015 Regulations and is found to be non-compliant or liable

for any type of incident, there will be legal repercussions. Specifically, your firm could sustain fines, prosecutions and loss of credibility in the eyes of both the public and your shareholders. For that reason, your firm must develop a thorough construction phase plan, health and safety file, and risk management plan.

Although your construction firm may find other solutions that work best for your projects, here are four suggestions that may be beneficial:

1. Attend a CDM workshop or course to familiarise yourself on the regulations and responsibilities.
2. Before planning and construction begins, bring in a licensed inspector to identify any potential hazards either in the processes or materials.
3. Develop a construction phase plan quickly and efficiently with the free app from the Construction Industry Training Board (CITB). The CITB CDM Wizard App can be found at www.citb.co.uk/health-safety-and-other-topics/health-safety/construction-design-and-management-regulations/cdm-wizard-app
4. You can review the legal responsibilities of all parties—clients, contractors, developers and workers—for the project with CITB's free industry guidance. The guides can be found at www.citb.co.uk/health-safety-and-other-topics/health-safety/construction-design-and-management-regulations/cdm-guidance-documents

Retaining Quality through Safe Work Practices

The CDM 2015 Regulations introduced significant changes to the construction industry in an effort to increase the health and safety of its workers without sacrificing the quality of work. To ensure that your construction workers and projects remain compliant from the pre-planning stages to completion, contact your broker at Trade Protect